**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO. 20961 OF 1996**

**DATE: 18-1-2001**

**Between:**
D.Ramalinga Reddy .... Petitioner

And

1. Special Officer, Noble Junior College,
Dilsukhnagar, Hyderabad and 2 others ... Respondents

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO. 20961 OF 1996**

ORDER:

The petitioner was placed under suspension by the 1st respondent, vide proceedings dated 17.9.1996. He submitted his representation thereagainst to the Regional Joint Director of Higher Education, Warangal on 18.9.1996. The 3rd respondent, vide proceedings dated 19.9.1996, set aside the order issued earlier on 27.8.1996 and requested the Special Officer to take necessary action to set aside the order of suspension dated 17.9.1996. The Regional Joint Director observed that the Special Officer may issue necessary orders/charge sheet to the petitioner for any irregularities noticed following the rules in force and obtain specific orders from the Regional Joint Director, the competent authority under the A.P. Education Act. The representation submitted by the petitioner on 21.9.1996 to the Special Officer seeking implementation of the order of the Regional Joint Director dated 19.9.1996 was of no avail.

Sri K.Harinath, learned counsel for the petitioner, would refer to Sub-Sections (3) and (4) of Section 79 of the A.P. Education Act which read thus:

"(3) (a) No employee shall be placed under suspension except when an inquiry into the gross misconduct of such employee is contemplated (b) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not started and completed within that period, such employee shall, without prejudice to the inquiry, be deemed to have been restored as employee Provided that the competent authority may, for reasons to be

recorded in writing, extend the said period of two months for a further period not exceeding two months, if in the opinion of such competent authority the inquiry could not be completed within the said period of two months for reasons directly attributable to such employee

(4) Every such employee as is placed under suspension under sub-section (3) shall be paid subsistence allowance at such rates as may be prescribed during the period of his suspension "

Under Section 79(3)(b) no order of suspension shall remain in force for a period of more than two months from the date of suspension provided that the competent authority may, for reasons to be recorded in writing, extend the period of two months by a further period of two months. Learned counsel would place reliance on the Division Bench Judgment in **T.Inna Reddy v. District Educational Officeer, Hyderabad**[1] wherein the Division Bench observed:

".....FROM a reading of the order of suspension it is not clear as to whether suspension was directed because of contemplation of departmental enquiry proceedings. But the order is specific that suspension was being made because of the petitioner's involvement in criminal cases. It is of course competent for the management to also proceed against him departmentally but in such a case the suspension cannot be effective beyond a maximum period of four months. A Division Bench of this Court in the decision in Y. Philomena, Dr. Sr, vs. Govt, of A. P. (1994(2) ALT 665) held as under:

"the implications of Section 79 of the Act are mandatory. An enquiry instituted under Section 79 (1) of the Act shall be completed within a period of two months from the date of communication of the charges. The order of the suspension shall be co-extensive with such a period and comes to an end on the expiry of the period of two months from the date of suspension. If either the inquiry is not started or completed within the period of two months from the date of suspension, the employee so suspended shall be deemed to have been restored. Such period of two months can be extended for a further period not exceeding two months if the inquiry could not be completed within the initial period of two months for reasons directly attributable to such employee. As a whole, the period of suspension cannot exceed four months from the date of suspension or even from the date of communication of charges. Immediately on the expiry of such period of four months, the employee so suspended shall be deemed to have been restored as employee."

In the instant case the suspension has not been extended by the competent authority also and hence by operation of sub-section (3) (b) of Section 79 of the act the petitioner would have been deemed to have been restored to his office, if his suspension was in relation to any departmental proceeding.

THOUGH respondent No. 2 has been served with notice he does not

appear. Since it is conceded by the learned Government Pleader that there is no corresponding provision applicable to the teachers of aided educational institutions making them liable for suspension because of their involvement in criminal cases and arrest, the concept of such provisions as are applicable to government employees are not ipso facto attracted to them. But since it is the inherent right of the Master to place a servant under suspension, which would mean putting him off the duties to discharge, it cannot be doubted that even apart from the scope of Section 79 of the Act, the management would have the right to place the petitioner under suspension and that no statutory limitation as stipulated in Sec. 79 (3) (a) is applicable to such suspension. **But in such a case there cannot be any reduction of pay of the employee there being no authority for the same. Suspension does not mean an end of the relationship between the master and the Servant. The relationship remains animated but in abeyance would entitle the employee to receive his full wages during the period of suspension even though he is commanded by the Master not to discharge the duties. Such rights and liabilities of the Master and the Servant are liable to statutory control as is found in Section 79 of the Act but save and expect (sic. except) the field covered by the statutory provision, the rights of both the parties remain as regulated under the contract of service. There is no independent contract pleaded by the respondent No. 2 of a right in the management to suspend the employee and to pay at a reduced rate**. The stand of the petitioner must hence be taken to have been fully vindicated……" (emphasis supplied)

Sri K.Harinath, learned counsel for the petitioner is not in a position to state as to whether the petitioner has since been reinstated into service or not. The fact, however, remains that Section 79(3) prescribes a maximum period of four months for an employee to be kept under suspension. In case the petitioner has been kept under suspension beyond the period of four months, the order of suspension is contrary to Section 79(3) of the A.P. Education Act and to the law laid down by this Court in **P.Inna Reddy**, and is illegal. In case the petitioner has been continued under suspension beyond the period of four months, he shall be entitled to be paid the differential salary for the period beyond four months.

The writ petition is accordingly disposed of. No costs.

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18-1-2007

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[1] 1996(3) ALD 691 (DB)